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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/892,926

06/26/2001

Yasuhiro Ogata

29288.1400

3852

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7590

05/11/2009

SNELL & WILMER L.L.P. (Main)

400 EAST VAN BUREN

ONE ARIZONA CENTER

PHOENIX, AZ 85004-2202

EXAMINER

SHIBRU, HELEN

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

05/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/892,926

Applicant(s)

OGATA ET AL.

Examiner

HELEN SHIBRU

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/24/2009 has been entered.

Response to Amendment

2. The amendments, filed 02/24/2009, have been entered and made of record. Claims 1-15 are cancelled, and claims 16-23 are pending.

Response to Arguments

3. Applicant's arguments filed 02/24/2009 have been fully considered but they are not persuasive. See below.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 16-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanaya (US Pat. No. 5,754,258).

Regarding claim 16, Hanaya teaches an audio processing apparatus, comprising:

a second obtaining section for obtaining a second audio signal from a second source (audio signal of the 'currently received channel' as shown in figure 25);

a third obtaining section for obtaining a third audio signal from a third source (audio signal of the 'newly input channel' as shown in figure 25), the third audio signal having a volume level different from that of the second audio signal (see col. 6 lines 18-26, col. 7 line 41-44 and also see figure 4 the volume button switch is operated when volume is up and down); and an output control section for selectively switching between the second audio signal obtained at the second obtaining section and the third audio signal obtained at the third obtaining section to be output as a sound from a speaker (switching from the currently received channel to the newly received channel and then to the currently received channel is performed as shown in figure 25), wherein when switching a sound to be output from the speaker from a sound based on the third audio signal to a sound based on the second audio signal (second and third audio signals are outputted based on second and third audio level), the output control section completes an output of the sound based on the third audio signal, passes through a mute state, and subsequently starts an output of the sound based on the second audio signal (see figure 25, abstract, and col. 21 line 1-col. 22 line 15, when the answer to SP113 is 'yes', the newly received audio signal is muted and completed and only the second audio signal is outputted at the end).

Regarding claim 17, Hanaya discloses the third source is a reproduction only medium (see figure 4 and col. 10 line 66-col. 11 line 11).

Regarding claim 18, Hanaya discloses the third audio signal has a smaller volume level than the second audio signal (the volume of the third audio signal is up using volume up and down button, see col. 7 lines 41-44).

Regarding claim 19, Hanaya teaches a first obtaining section for obtaining a first audio signal from a first source, the first audio signal having the same volume level as the second audio signal (see col. 10 lines 53-col. 11 line 11 where the prior art teaches receiving multiple audio signals with the corresponding multiple channels, and the level is controlled using the up and down button, and using the button the first audio signal have same audio level with the second audio signal), wherein the output control section selectively switches among the second audio signal obtained at the second obtaining section, the third audio signal obtained at the third obtaining section, and the first audio signal obtained at the first obtaining section to be output as a sound from a speaker (see col. 7 lines 40-57 switching channels or selectively switching channels is performed); and when switching a sound to be output from the speaker from the sound based on the first audio signal to the sound based on, the second audio signal, the output control section completes an output of the sound based on the first audio signal and subsequently starts an output of the sound based on the second audio signal (see rejection of claim 16 above).

Regarding claim 20, Hanaya discloses an audio processing apparatus, comprising:
a second obtaining section for obtaining a second audio signal from a second source (see rejection of claim 16 above); a third obtaining section for obtaining a third audio signal from a third source, the third audio signal having a volume level different from that of the second audio signal (see rejection of claim 16 above); an output control section for selectively between switching the second audio signal obtained at the second obtaining section and the third audio signal obtained at the third obtaining section to be output as a sound from a speaker (see rejection of claim 16 above); and

an operation detecting section for detecting an operation of a user (see col. 4 lines 54-61, col. 7 lines 58-67 where the prior art teaches user operates the switching process), wherein when switching a sound to be output from the speaker from a sound based on the third audio signal to a sound based on the second audio signal, the output control section completes an output of the sound based on the third audio signal when an operation of the user is detected by the operation detecting section while the sound based on the third audio signal is being output, transfers to a mute state, and the output control section transfers from the mute state and starts an output of the sound based on the second audio signal when the operation of the user is detected by the operation detecting section subsequent to the mute state (see rejection of claim 1 above and col. 7 lines 58-67 where the prior art teaches user operates the switching process).

Method claims 21-23 are rejected for the same reasons as discussed in claims 1-18 respectively above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamaguschi et al. (US Pat. No. 5726702) teaches controlling sound level.

Sansur (US Pat. No. 6,169,807) teaches sustaining volume level during channel changing transitions.

Webes (US Pat. No. 7,012,652) teaches regaining normal volume level after changing channel.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/
Examiner, Art Unit 2621
May 7, 2009

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621